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**DIGEST OF OTHER RECENT VIRGINIA DECISIONS.**  
**Supreme Court of Appeals.**

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NOTE.—In this department we give the syllabus of every case decided by the Virginia Supreme Court of Appeals, except of such cases as we report in full.

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**SOUTHERN RY. CO. v. BACK'S ADM'X.**

March 23, 1905.

[50 S. E. 257.]

**RAILROADS—INJURIES TO PERSONS ON TRACK—NEGLIGENCE.**

1. The mere fact that decedent was found in an injured condition on the right of way of defendant railroad company between the main and side tracks is not sufficient to establish actionable negligence by defendant.

[ED. NOTE.—For cases in point, see vol. 41, Cent. Dig. Railroads, sec. 1341.]

2. In an action against a railroad company for the death of decedent, it appeared that while in an intoxicated condition decedent entered one of defendant's signal towers; that he was ejected; that, after walking up and down the track several times, he disappeared, and later in the night was found by the track, some distance from the tower, in an injured condition, and soon died. Defendant's rules forbid strangers entering the signal tower, and there was no evidence that decedent, when ejected, was so intoxicated as to be helpless. *Held*, that neither his ejection from the tower nor the operator's failure to notify the train crews about to pass of decedent's presence was negligence.

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**BLAIR v. SECURITY BANK OF RICHMOND.**

March 16, 1905.

[50 S. E. 262.]

**CORPORATIONS—AGENTS—DECLARATIONS OF AGENT — ADMISSIBILITY — DELIVERY OF INSTRUMENT IN ESCROW—AGREEMENT POSTPONING DELIVERY.**

1. On an issue as to whether it had been agreed between those who signed a contract indemnifying a bank and the cashier and representative of the bank that the instrument should be held in escrow by the bank until all of the stockholders of a certain corporation had signed it, it was error to exclude the statements of the cashier and representative to the effect that the paper was signed and delivered with such understanding.

2. In an action on an agreement to indemnify plaintiff, a showing that the instrument was delivered with the understanding that it was to be held in escrow, and not to become operative until all the stockholders of a certain corporation had signed it, and they had not done so, was a complete defense.

3. On an issue as to whether a contract indemnifying plaintiff bank had been delivered to it on an understanding that it should be held in escrow, and not become operative until all the stockholders of a certain corporation had signed it, a requested instruction omitting the element of knowledge on the part of the bank of the alleged conditional execution and delivery was properly refused.